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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,591	05/02/2001	Reed Burkhart	M-10099 US	6512

36257 7590 09/09/2005

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EXAMINER	
SHEPARD, JUSTIN E	
ART UNIT	**PAPER NUMBER**
2617	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/847,591	BURKHART, REED	
	Examiner	Art Unit	
	Justin E. Shepard	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-22 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 02 May 2001 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In figure 7 part 1014, "Est. No. of Receivers," is not in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 20 is objected to because of the following informalities: The claim states "as in claim 2" even though the claim is dependent only on claim 1. Appropriate correction is required.

Claims 1 and 6 are objected to because of the following informalities: The term "and/or" is not preferred way of signifying the alternative form. Please use either "or" or "and," but not both. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 1, 2, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically the term "enterprise" is not defined in the claim.

Claims 3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically the meaning of the term "standardized template" is not disclosed in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-5, 8, 10, 13-18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks in view of Burns.

Claims 1-3, 6, 10, 15, and 20 have been examined with the best interpretations of the claims due to the clarity issues involved.

4. Referring to claim 1, Marks discloses a method for managing distribution and storage of content in a distributed system, including a satellite multicast internet overlay, the internet, LAN situated caches, LANS, and/or single computer/device or single cache recipients (column 3, lines 24-27; column 3, lines 59-62), in which: content is distributed

to recipients as elected by one or more of the recipient (column 3, lines 62), content originator, or another designated party given such responsibility, using meta-data to index the content and other content-related system parameters (column 9, lines 4-8) for the purposes of notification (column 10, lines 16-17), selection (column 4, line 10-15), distribution (column 9, lines 4-8), and activity logging (including metered billing) (column 5, lines 48-54), content destined for a plurality of recipients (for either simultaneous or non- simultaneous access) (column 5, lines 31-33), cache-resident content is further managed for distribution within the enterprise - including on-demand access (column 4, lines 55-57).

Marks does not disclose a method where content is multicast via satellite to LAN situated caches or direct to end user applications.

Burns discloses a method where content is multicast via satellite to LAN situated caches or direct to end user applications (column 6, lines 14-16; figure 6, part 206).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the secondary satellite network taught by Burns in the method disclosed by Marks. The motivation would have been to increase the available bandwidth without spending as much as a similar land based communication system would cost for the same amount of bandwidth (Burns: column 12, lines 10-14).

5. Referring to claim 2, Marks does not disclose a method of claim 1, in which the universe of users is aggregated onto the system advantageously (establishing a valuable neighborhood, or community of users) via a common geo-synchronous orbital location (or set of common orbital locations) from which content is relayed directly to

downlink satellite antennas at enterprise or other user locations all pointed to the common satellite orbital locations).

Burns discloses a method of claim 1, in which the universe of users is aggregated onto the system advantageously (establishing a valuable neighborhood, or community of users) via a common geo-synchronous orbital location (or set of common orbital locations) from which content is relayed directly to downlink satellite antennas at enterprise or other user locations all pointed to the common satellite orbital locations) (column 12, lines 10-11; Note: it is known that the current DSS satellite service, or Direct TV, operates with satellites in geo-synchronous orbit).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the DSS system taught by Burns in the method disclosed by Marks. The motivation would have been to increase the available bandwidth without spending as much as a similar land based communication system would cost for the same amount of bandwidth (Burns: column 12, lines 10-14).

6. Referring to claim 3, Marks discloses a method of claim 1, in which the meta-data categories conform to one of several standardized templates (column 9, lines 36-38).

Referring to claim 4, Marks discloses a method of claim 1, in which content for distribution is directed over the satellite multicast internet overlay directly to LAN-situated caches or over the traditional internet according to automated selection with objectives including delivery cost, quality, reliability, or latency (column 9, lines 62-63; column 10, lines 35-38).

Referring to claim 5, Marks does not disclose a method of claim 1, in which the satellite multicast Internet overlay involves standard satellite modulation and channel coding, and multimedia packaging (source coding, data compression, packetization, etc.) such as defined in industry standards such as the set of Digital Video Broadcasting (DVB) standards.

Burns discloses a method of claim 1, in which the satellite multicast Internet overlay involves standard satellite modulation and channel coding, and multimedia packaging (source coding, data compression, packetization, etc.) such as defined in industry standards such as the set of Digital Video Broadcasting (DVB) standards (column 12, lines 10-11).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the DVB standard taught by Burns in the method disclosed by Marks. The motivation would have been to increase the available bandwidth without spending as much as a similar land based communication system would cost for the same amount of bandwidth (Burns: column 12, lines 10-14).

7. Referring to claim 8, Marks does not disclose a method of claim 1, in which content recipients are provided a selective view of content schedules according to a filter corresponding to the recipients identity and the positive association of such identity with any defined group selected by the content originator to have access to the schedule for certain content controlled by content originator.

Burns discloses a method of claim 1, in which content recipients are provided a selective view of content schedules according to a filter corresponding to the recipients

identity and the positive association of such identity with any defined group selected by the content originator to have access to the schedule for certain content controlled by content originator (column 9, lines 25-33; Note: making sure it is downloaded for the earliest group is being equivalent to a defined group).

At the time of invention it would have been obvious for one of ordinary skill in the art to use the scheduling taught by Burns in the method disclosed by Marks. The motivation for doing this would have been to provide people with highly demanded media at the high demand times without tying up the bandwidth at high demand times (Burns: column 12, lines 22-25).

8. Referring to claim 10, Marks discloses a method of claim 1, in which content production and preparation tools produce such meta-data for distributed content management and delivery consistent with such meta-data templates or consistent with specific meta-data limits or objectives used to prescribe or control one or more of the parameters of the content being prepared (column 9, lines 4-8 and 12-15).

Referring to claim 13, Marks discloses a method of claim 1, in which content access rules for recipients and other system parameters are passed as supplementary such meta-data (column 9, lines 4-8).

Referring to claim 14, Marks discloses a method of claim 1, in which a software agent program at the recipient location is used to control management of content filtering from the satellite multicast Internet overlay or traditional internet delivery paths as well as to manage local content access by the recipient (over the LAN or within the

subsystems of a single computer system destination) (column 9, lines 4-8; column 5, lines 48-54).

9. Referring to claim 15, Marks does not disclose a method of claim 1, in which content guide software located within the enterprise or general user's location enables content schedule viewing, monitoring of local system use and status (including reporting to other elements of the distributed content management system), selection of content for viewing (including decryption), and enabling of other transactions associated with the system.

Burns discloses a method of claim 1, in which content guide software located within the enterprise or general user's location enables content schedule viewing, monitoring of local system use and status (including reporting to other elements of the distributed content management system), selection of content for viewing (including decryption), and enabling of other transactions associated with the system (column 9, lines 25-33; Note: the guide software is being interpreted as internal software that runs automatically without the user's direct interaction).

At the time of invention it would have been obvious for one of ordinary skill in the art to use the content guide taught by Burns in the method disclosed by Marks. The motivation for doing this would have been to provide people with highly demanded media at the high demand times without tying up the bandwidth at high demand times (Burns: column 12, lines 22-25).

10. Referring to claim 16, Marks discloses a method of claim 1, in which the multiplexing for satellite multicast Internet overlay delivery is optimized for efficient

loading, considering factors such as size (column 9, lines 12-15) and nature of content (column 4, lines 10-15), and timing requirements for delivery (column 9, lines 62-63).

Referring to claim 17, Marks discloses a method of claim 1, in which multiple modulated carriers sent over the satellite multicast Internet overlay are simultaneously received and processed for access (column 9, lines 58-59 and 65-66).

11. Referring to claim 20, Marks does not disclose a method of claim 1, in which users of the current satellite multicast to enterprise technology (e.g., and without exclusion, analog or digital business television satellite network users) are aggregated on traditional business terms (i.e., in advance of implementation of the other claims of the present invention) to expand the neighborhood (as in claim 2) enabling upselling the traditional users into the more broadly functional system as it becomes available and accelerating the establishment of a valuable neighborhood by accelerating the number of downlink antennas pointed at the satellite, and thereby accelerating the prospects for early and wide adoption of the shared satellite network portion of a distributed content management system such as described in the present invention.

Burns discloses a method of claim 1, in which users of the current satellite multicast to enterprise technology (e.g., and without exclusion, analog or digital business television satellite network users) are aggregated on traditional business terms (i.e., in advance of implementation of the other claims of the present invention) to expand the neighborhood (as in claim 2) enabling upselling the traditional users into the more broadly functional system as it becomes available and accelerating the establishment of a valuable neighborhood by accelerating the number of downlink

antennas pointed at the satellite, and thereby accelerating the prospects for early and wide adoption of the shared satellite network portion of a distributed content management system such as described in the present invention (column 12, lines 10-11; Note: using the existing DSS system is being viewed as a way of increasing the number of people that use the system as the DSS system already has a large existing subscriber base).

At the time of the invention it would have been obvious for one of ordinary skill in the art the increase the amount of users, by using an existing technology like DSS, as taught by Burns in the method disclosed by Marks. The motivation would have been to increase the available bandwidth without spending as much as a similar land based communication system would cost for the same amount of bandwidth (Burns: column 12, lines 10-14).

12. Referring to claim 18, neither Marks or Burns disclose a method of claim 1, in which meta-data is formatted for delivery in the format of XML or one of its implementations or derivatives.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use XML as the data format for the meta data in the method disclosed by Marks and Burns. The motivation for doing this would be to use a common known format so that it would not require learning a new language to program for the device (XML is commonly used in webpages, and the description scheme used in MPEG-7). (Office Notice)

13. Referring to claims 21 and 22, neither Marks or Burns disclose a method of claim 1, in which use of the system is expanded by promoting the system functionality between business partners and the use of the system by businesses or other organizations that are content contributors who desire their business partners to have access to their broadband multimedia content; and who consequently are incentivized to promote the use of the system by their business partners; or in which the service is marketed by co-branding between the distributed content delivery service brand and one or more or the users' brands of users using the distributed content delivery service, including exploitation of acquired content brands.

At the time of the invention it would have been obvious to expand a communications system to better connect users and therefore produce more revenue. To use any of these well known marketing techniques, such as cross branding or partnering, to accomplish this would be considered obvious because using more partners is already a known way of decreasing individual investment and therefore decrease the risk of individual financial investments. (Official Notice)

Claims 6, 7, 9, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks in view of Burns as applied to claim 1-5, 8, 10, 13-17, and 20-22 above, and further in view of Garrity.

14. Referring to claim 6, Marks in view of Burns does not disclose a method of claim 1, in which content and/or meta-data is secured by encryption.

Garrity discloses a method of claim 1, in which content and/or meta-data is secured by encryption (column 9, line 33).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the encryption as taught by Garrity to the system disclosed by Marks in view of Burns. The motivation would have been to keep others from being able to intercept confidential, such as billing, information.

Referring to claim 7, Marks in view of Burns does not disclose a method of claim 1, in which prospective content distributors view system schedules and availability as defined by meta-data templates through the system (delivered via the internet or the satellite-multicast overlay or stored locally on a LAN- situated cache or single-computer hard disk).

Garrity discloses a method of claim 1, in which prospective content distributors view system schedules and availability as defined by meta-data templates through the system (delivered via the internet or the satellite-multicast overlay or stored locally on a LAN- situated cache or single-computer hard disk) (column 5, lines 29-32 and 35-37; Note: if something is available to the consumer, it would undoubtedly be available for the distributor).

At the time of the invention it would have been obvious for one of ordinary skill in the art to provide the schedule to the subscribers as taught by Garrity to the method disclosed by Marks in view of Burns. The motivation would have been to enable customers to see when content would become available and modify their surfing habits to correspond with the schedule.

15. Referring to claim 9, Marks in view of Burns does not disclose a method of claim 1, in which content access is enabled according to free, pay-per-view, or subscription

status, coincident with secure control to preclude unauthorized access to content, and coincident with distributed content management control signals used for conditional access, billing, etc.

Garrity discloses a method of claim 1, in which content access is enabled according to free, pay-per-view, or subscription status, coincident with secure control to preclude unauthorized access to content, and coincident with distributed content management control signals used for conditional access, billing, etc (column 7, lines 15-22).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the fee system taught by Garrity in the system disclosed by Marks in view of Burns. The motivation would have been to keep others from being able to intercept confidential, such as billing, information and therefore use it to steal from customers.

16. Referring to claim 19, Marks in view of Burns does not disclose a method of claim 1, in which service charges are collected for one or all of management of the system, access to system content, distribution of content over the system, and transactions (such as purchases of other products or services) relating to the operation of the system or resulting from use of the system.

Garrity discloses a method of claim 1, in which service charges are collected for one or all of management of the system, access to system content, distribution of content over the system, and transactions (such as purchases of other products or services) relating to the operation of the system or resulting from use of the system (column 12, lines 1-7).

At the time of the invention it would have been obvious for one of ordinary skill in the art to charge the users for access to the system as taught by Garrity in the method disclosed by Marks in view of Burns. The motivation would have been to decrease the amount of commercials that appear in the system because of the revenue gained from the fees.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks in view of Burns as applied to claim 1-5, 8, 10, 13-17, and 20-22 above, and further in view of Gold.

17. Referring to claim 11, Marks in view of Burns does not disclose a method of claim 1, in which certain content to be delivered is backhauled via dedicated or shared data circuits or the internet to a centralized queue or multiplexer for combination with other content to be sent over the satellite multicast internet overlay portion of the system.

Gold discloses a method of claim 1, in which certain content to be delivered is backhauled via dedicated or shared data circuits or the internet to a centralized queue or multiplexer for combination with other content to be sent over the satellite multicast internet overlay portion of the system (column 2, lines 48-51; figure 1, part 12).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use a multiplexing system as taught by Gold in the method disclosed by Marks in view of Burns. The motivation for doing this would have been to use the entire bandwidth of the communication system by filling it up with multiple types of content.

Referring to claim 12, Marks in view of Burns discloses a method of claim 11, in which the backhaul transmissions are included as controlled content management events by the distributed content management system (column 10, lines 3-7).

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Conrad, U.S. Patent Number 6,810,527, System and Method for Distribution and Delivery of Media Context and Other Data to Aircraft Passengers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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